IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 818 OF 2007

in

APPEAL (LODGING) NO. 809 OF 2006

IN

ARBITRATION PETITION NO. 519 OF 2003

D.B.Patil & Ors. ... Appellants

Vs.

Parsram Brothers (Australia) Pty.Ltd.
& Ors. ... Respondents

Mr. C.U.Singh with Mahesh Londhe i/b. Sanjay Udeshi & Co. for the appellants.

Mr. Phiroze Palkhivala with Rajmani Verma i/b. Nordeep Vora & Associates for respondent No.3.

CORAM: D.K.DESHMUKH &

J.H.BHATIA,JJ.

DATE : 6th August, 2007.

P.C.

1. Assuming that there is sufficient cause shown for condonation of delay in filing the appeal, we have heard learned Counsel for both the sides on merits.

2. In our opinion, though it is true that the departmental enquiry against the appellants is initiated because of the observations made by this Court in the order dated 24th February, 2004 in Arbitration Petition No. 519 of 2003, while considering the question whether the charges levelled against the appellants are proved or not, the observations that have been made by this Court in the order dated 24th February, 2004, shall not be taken into consideration primarily because before making those observations this Court had not given an opportunity of being heard to the appellants. The decision whether the charges levelled against the appellants are proved or not will be taken by the employer on the basis of the material produced before the employer during the departmental enquiry and not on the basis of the observations contained in the order dated 24th February, 2004.

3. In view of these observations, we see no reason to interfere with the impugned order. Hence, the Motion and the Appeal are disposed of.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)